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BY \_\_\_\_\_  
DEPUTY

GARY BASTIE  
523 South 59<sup>th</sup> Street  
St. Petersburg FL 33707  
Telephone: 727-341-1217  
Facsimile: 727-344-0112

**In The United States District Court  
For The District of Nevada**

**Thomas A. Dillon, Independent  
Fiduciary Of Employers Mutual Plans,**

**Plaintiff,**

**vs.**

**James Lee Graf, et al.**

**Defendant(s).**

**Case No.: CV-N-03-0119-HDM-VPC**

**ANSWER AND INTERIM STATUS  
REPORT**

**Introduction To Answer and Interim Status Report**

Gary Bastie, on behalf of himself and others similarly situated answers the following with respect to the Order and Case Management Order dated July 6, 2004 as requested by that same Order. The Order was received by Mr. Bastie on July 12, 2004 and this Answer and Report represents Mr. Bastie's best effort at responding to the request. Although Mr. Bastie is not a "member" of the Joint Defense Committee—he is pro se—he is answering on that basis. Mr. Bastie

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1 and others similarly note here that the court is operating in clear absence of all  
2 jurisdiction.

3  
4 **Supporting Information**

5  
6 1. The original Case management Order allows Mr. Bastie and others similarly  
7 situated, to file their own paperwork with the court (reference page 4 of NOTICE  
8 OF ENTRY OF CASE MANAGEMENT ORDER, October 23, 2003, see lines 18-  
9 19, "Defendants who were either general or wholesale agents may file separate  
10 motions on their respective behalf or respective joinder(s) to any motion filed by  
11 lead counsel.") as does the Constitution of the United States allow Mr. Bastie and  
12 others similarly situated to have pro se status with the court. The Order lists, "All  
13 Parties and Joint Defense Committee File Interim Status Reports" therefore, this  
14 answer is being submitted as per Order.

15  
16 2. Mr. Bastie, and others similarly situated filed motions, objections, forum non-  
17 convenience and other paperwork with the court. No answers have been  
18 received from the court at this time.

19  
20 3. Mr. Bastie, and others similarly situated filed an Objection To Lead Counsel  
21 and Mediator in December, 2003.

1 4. The Case Management Order stipulated that Mr. Brace would have until  
2 February 20, 2004 to reply to Motions.

3  
4 5. Mr. Brace, in his PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTIONS  
5 BASED ON: F.R.C.P. 12(b)(6); ERISA PREEMPTION; OBJECTIONS TO THE  
6 COURT APPOINTMENT OF LEAD COUNSEL AND A MEDIATOR; AND,  
7 MOTIONS CHALLENGING VENUE AND SEEKING TO TRANSFER VENUE  
8 PURSUANT TO 28 U.S.C. 1404; MEMORANDUM OF POINTS AND  
9 AUTHORITIES IN SUPPORT OF OPPOSITION, states that a Court Order was  
10 issued on February 23, 2004 allowing him to respond with a single motion "late",  
11 that is, not by February 20, 2004. Mr. Brace missed his original opportunity.

12  
13 6. Mr. Brace finally replied to Motions on June 24, 2004. Mr. Brace's reply was  
14 incomplete and failed to address points made by Mr. Bastie and others similarly  
15 situated.

16  
17 7. Mr. Bastie and others similarly situated have not, as of July 19, 2004, heard  
18 from the court concerning their motions, objections, forum non-conveniens nor,  
19 specifically, their Objection to Lead Counsel and Mediator. Therefore, they have  
20 not attended any mediation.  
21

1 8. Mr. Brace, in his single answer to all motions, failed to address each point  
2 that Mr. Bastie raised and therefore they must be deemed as true and Mr. Bastie  
3 and others similarly situated should be dismissed with prejudice..  
4

5 9. Mr. Brace "missed" his answer to motions date yet received another "chance"  
6 by the court (see above referenced February 23, 2004 order also referenced by  
7 Mr. Brace). Mr. Bastie and others similarly situated should be dismissed with  
8 prejudice.  
9

10 10. Thus far, the court has not established Subject Matter Jurisdiction over Mr.  
11 Bastie and others similarly situated, yet, without an answer specifically from Mr.  
12 Brace, nor the court, Mr. Bastie (and others similarly situated) seems to be  
13 expected, by the court, to be ordered to mediation.  
14

15 11. Mr. Bastie still stands on his forum non-conveniens issues and reminds the  
16 court that among his other points, he cannot afford to travel to Nevada. In fact,  
17 Mr. Brace failed to answer Mr. Bastie's specific points, and the court must  
18 dismiss Mr. Bastie and others similarly situated as a result.  
19

20 12. Mr. Brace failed to prove that the court has Subject Matter Jurisdiction (refer  
21 to Motion To Strike Plaintiff's Consolidated Answers by Mr. Bastie). Mr. Bastie,  
22 and others similarly situated seem to be ordered to attend mediation when in  
23 fact, the court should dismiss Mr. Bastie and others similarly situated.

1  
2 13. Mr. Bastie has submitted to the court, notice of Mr. Brace's extortion and mail  
3 fraud (see last year's notice to the court July, 2003) and never heard from the  
4 court in writing or via any other method). Mr. Bastie believes the court lost  
5 Subject Matter Jurisdiction at that point in time and that he and others similarly  
6 situated should be dismissed with prejudice.

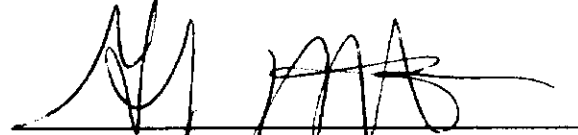
7  
8 14. Mr. Bastie has also noticed the court concerning Mr. Brace's improper use of  
9 terminology which rises to a level of fraud on the court. Mr. Bastie believes that  
10 he and others similarly situated should be dismissed with prejudice because the  
11 court did not answer his notice nor did Mr. Brace.

### 12 13 **Conclusion and Status**

14  
15 Mr. Bastie and others similarly situated believe the court does not have subject  
16 matter jurisdiction, that the court has not answered Mr. Bastie and others  
17 similarly situated, and that the court must dismiss them with prejudice. Mr.  
18 Bastie and others similarly situated, has filed notices, motions, objections and a  
19 forum non-conveniens with the court and the court has not answered. Therefore,  
20 Mr. Bastie believes that the court has not established jurisdiction over him and  
21 lacks the ability to compel him to attend mediation and should, in fact, dismiss  
22 him and others similarly situated, with prejudice. The court is operating in clear  
23 absence of all jurisdiction and this is a non-suit.

**CERTIFICATE OF SERVICE BY FACSIMILE AND MAIL**

I CERTIFY that I, on this 19<sup>th</sup> day of July, 2004, faxed a true and correct copy of this Answer and Interim Status Report directly to the court, and to the Clerk of the Court, as well as mailing to those on the Certificate of Service List below.

  
Gary Basile

Robert L. Brace  
Hollister & Brace  
1126 Santa Barbara Street  
P.O. Box 630  
Santa Barbara, CA 92102

Richard W. Horton  
Lionel Sawyer & Collins  
50 West Liberty Street  
Suite 1100  
Reno, Nevada 89501

Sierra Legal Duplicating  
Document Depository  
124 W. Taylor  
Reno, Nevada 89505

And also:

Leonardo D. Floyd  
U. S. Department of Justice  
Southern District of Mississippi  
100 West Capitol, Suite 1553  
Jackson, Mississippi 39269

Noel Hillman  
U.S. Department of Justice  
950 Pennsylvania Ave. N.W.  
Washington, DC 20530-0001